

98TH CONGRESS  
1ST SESSION

# H. R. 126

To permit either House of Congress to disapprove certain rules proposed by executive agencies.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 1983

Mr. FUQUA introduced the following bill; which was referred jointly to the Committees on the Judiciary and Rules

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## A BILL

To permit either House of Congress to disapprove certain rules proposed by executive agencies.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 That this Act may be cited as the ~~Administrative Rulemak-~~  
4 ~~ing Control Act~~."

5 SEC. 2. The Congress finds that—

6 (1) the executive agencies through rulemaking  
7 powers have promulgated many rules which contain  
8 criminal sanctions;

1           (2) the executive agencies have often exceeded  
2           the intent of Congress in the manner in which such  
3           agencies have administered various laws; and

4           (3) the executive agencies in the administration of  
5           any law should be more responsive to the intentions of  
6           Congress in enacting such law.

7           Therefore, it is the purpose of this Act to establish a proce-  
8           dure whereby Congress may review certain rulemaking activ-  
9           ities of executive agencies, thereby exercising greater control  
10          and oversight over the operations of such agencies.

11          ~~Sec. 3. Section 553~~ of title 5, United States Code (re-  
12          lating to rulemaking), ~~is amended to read as follows:~~

13          “§ 553. Rulemaking and congressional disapproval of pro-  
14                  posed rules

15          “(a) ~~This section applies,~~ according to the provisions  
16          thereof, ~~except the extent that there is involved,—~~

17                  “(1) ~~a military or foreign affairs function of the~~  
18                  ~~United States; or~~

19                  “(2) a matter relating to agency management or  
20                  personnel or to public property, loans, grants, benefits,  
21                  or contracts.

22                  “(b) General notice of proposed rulemaking shall  
23                  be published in the Federal Register. The notice shall  
24                  include—

1           “(1) a statement of the time, place, and nature of  
2       public rulemaking proceedings;

3           “(2) reference to the legal authority under which  
4       the rule is proposed; and

5           “(3) either the terms or substance of the proposed  
6       rule or a description of the subjects and issues in-  
7       volved.

8       Except when notice or hearing is required by statute, this  
9       subsection does not apply—

10           “(A) to interpretative rules, general statements of  
11       policy, or rules of agency organization, procedure, or  
12       practice; or

13           “(B) when the agency for good cause finds (and  
14       incorporates the finding and a brief statement of rea-  
15       sons therefor in the rules issued) that notice and public  
16       procedure thereon are impracticable, unnecessary, or  
17       contrary to the public interest.

18           “(c) After notice required by this section, the agency  
19       shall give interested persons an opportunity to participate in  
20       the rulemaking through submission of written data, views, or  
21       arguments with or without opportunity for oral presentation.  
22       After consideration of the relevant matter presented, the  
23       agency shall incorporate in the rules adopted a concise gener-  
24       al statement of their basis and purpose. When rules are re-  
25       quired by statute to be made on the record after opportunity

1 for an agency hearing, sections 556 and 557 of this title  
2 apply instead of this subsection.

3 “(d) Except where subsections (f) and (g) apply, the re-  
4 quired publication or service of a substantive rule shall be  
5 made not less than thirty days before its effective date,  
6 except—

7 “(1) a substantive rule which grants or recognizes  
8 an exemption or relieves a restriction;

9 “(2) interpretative rules and statements of policy;  
10 or

11 “(3) as otherwise provided by the agency for good  
12 cause found and published with the rule.

13 “(e) Each agency shall give an interested person the  
14 right to petition for the issuance, amendment, or repeal of a  
15 rule.

16 “(f) A rule shall take effect only in the manner provided  
17 in subsection (g) if it is a rule—

18 “(1) with respect to which general notice of a pro-  
19 posed rulemaking is required to be published by this  
20 section; and

21 “(2) the violation of which subjects the person in  
22 violation to a criminal penalty.

23 “(g)(1)(A) Except as provided in subparagraphs (B) and  
24 (D), a rule described in subsection (f) may take effect (i) only  
25 if published (with an identification number) in the Federal

1 Register, (ii) only after the expiration of the first period of  
2 thirty calendar days of continuous session of Congress after  
3 the date on which the rule was published, and (iii) only if,  
4 between the date of publication and the end of the thirty-day  
5 period, neither House, without referral of such matter to the  
6 appropriate committee, passes a resolution stating in sub-  
7 stance that that House does not favor the rule.

8       “(B) Notwithstanding the provisions of subparagraph  
9 (A) of this paragraph, whenever a resolution, stating in sub-  
10 stance that a House does not favor a rule described in para-  
11 graph (f), is referred to a committee of either House, such  
12 rule may take effect (i) only after the expiration of the first  
13 period of sixty days of continuous session of Congress after  
14 the date on which the rule was published, and (ii) only if,  
15 between the date of publication and the end of the sixty-day  
16 period, neither House passes such resolution.

17       “(C) For the purpose of subparagraph (A) of this para-  
18 graph—

19               “(i) continuity of session is broken only by an ad-  
20       journment of Congress sine die; and

21               “(ii) the days on which either House is not in ses-  
22       sion because of an adjournment of more than three  
23       days to a day certain are excluded in the computation  
24       of the thirty-day period.

1       “(D) Under provisions contained in a rule, a provision of  
2 the rule may be effective at a time later than the date on  
3 which the rule otherwise is effective.

4       “(2) Paragraphs (3) through (8) of this subsection are  
5 enacted by Congress—

6       “(A) as an exercise of the rulemaking power of  
7 the Senate and the House of Representatives, respec-  
8 tively, and as such they are deemed a part of the rules  
9 of each House, respectively, but applicable only with  
10 respect to the procedure to be followed in that House  
11 in the case of resolutions described by paragraph (3) of  
12 this subsection; and they supersede other rules only to  
13 the extent that they are inconsistent therewith; and

14       “(B) with full recognition of the constitutional  
15 right of either House to change the rules (so far as re-  
16 lating to the procedure of that House) at any time, in  
17 the same manner and to the same extent as in the case  
18 of any other rule of that House.

19       “(3) For the purpose of paragraphs (2) through (8) of  
20 this subsection, ‘resolution’ means only a resolution of either  
21 House of Congress, the matter after the resolving clause of  
22 which is as follows: ‘That the                      does not favor  
23 the rule numbered              published in the Federal Register  
24 on                      , 19   .’, the first blank space therein being  
25 filled with the name of the resolving House and the other

1 blank spaces therein being appropriately filled; but does not  
2 include a resolution which specifies more than one rule.

3       “(4) Upon introduction of a resolution with respect to a  
4 rule, it shall be in order at any time thereafter to move the  
5 referral of such resolution to a committee pursuant to para-  
6 graph (5) or to move the adoption of such resolution. Each  
7 such motion is highly privileged and is not debatable. An  
8 amendment to such motion is not in order, and it is not in  
9 order to move to reconsider the vote by which the motion is  
10 agreed to or disagreed to. In the case of a motion to adopt a  
11 resolution, the procedures set forth in paragraphs (7) (B) and  
12 (8) (A) and (B) shall apply.

13       “(5) After passage by a majority vote of a motion to  
14 refer a resolution to a committee, such resolution shall be  
15 referred to such committee (and all resolutions with respect  
16 to the same rule shall be referred to the same committee) by  
17 the President of the Senate or the Speaker of the House of  
18 Representatives, as the case may be.

19       “(6)(A) If the committee to which a resolution with re-  
20 spect to a rule has been referred has not reported it at the  
21 end of ten calendar days after its introduction, it is in order to  
22 move either to discharge the committee from further consid-  
23 eration of the resolution or to discharge the committee from  
24 further consideration of any other resolution with respect to  
25 the rule which has been referred to the committee.

1       “(B) A motion to discharge may be made only by an  
2 individual favoring the resolution, is highly privileged (except  
3 that it may not be made after the committee has reported a  
4 resolution with respect to the same rule), and debate thereon  
5 shall be limited to not more than one hour, to be divided  
6 equally between those favoring and those opposing the reso-  
7 lution. An amendment to the motion is not in order, and it is  
8 not in order to move to reconsider the vote by which the  
9 motion is agreed to or disagreed to.

10       “(C) If the motion to discharge is agreed to or disagreed  
11 to, the motion may not be renewed, nor may another motion  
12 to discharge the committee be made with respect to any  
13 other resolution with respect to the same rule.

14       “(7)(A) When the committee has reported, or has been  
15 discharged from further consideration of, a resolution with  
16 respect to a rule, it is at any time thereafter in order (even  
17 though a previous motion to the same effect has been disa-  
18 greed to) to move to proceed to the consideration of the reso-  
19 lution. The motion is highly privileged and is not debatable.  
20 An amendment to the motion is not in order, and it is not in  
21 order to move to reconsider the vote by which the motion is  
22 agreed to or disagreed to.

23       “(B) Debate on the resolution shall be limited to not  
24 more than ten hours, which shall be divided equally between  
25 those favoring and those opposing the resolution. A motion



1 further to limit debate is not debatable. An amendment to, or  
2 motion to recommit, the resolution is not in order, and it is  
3 not in order to move to reconsider the vote by which the  
4 resolution is agreed to or disagreed to.

5 “(8)(A) Motions to postpone, made with respect to the  
6 discharge from committee, or the consideration of, a resolu-  
7 tion with respect to a rule, and motions to proceed to the  
8 consideration of other business, shall be decided without  
9 debate.

10 “(B) Appeals from the decisions of the Chair relating to  
11 the application of the rules of the Senate or the House of  
12 Representatives, as the case may be, to the procedure relat-  
13 ing to a resolution with respect to a rule shall be decided  
14 without debate.

15 “(h) Congressional inaction with respect to, or the rejec-  
16 tion without referral to a committee of any resolution disap-  
17 proving a rule described in subsection (f) of this section shall  
18 not be deemed to be an expression of approval of such rule.”.

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